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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,924	01/23/2004	Russell D. Bailey	2639-000002/Us	7846
28997	7590	03/03/2005	EXAMINER	
HARNESS, DICKEY, & PIERCE, P.L.C			ROWAN, KURT C	
7700 BONHOMME, STE 400			ART UNIT	PAPER NUMBER
ST. LOUIS, MO 63105			3643	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/763,924	BAILEY, RUSSELL D.	
	Examiner Kurt Rowan	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 15 December 2004.  
2a)  This action is **FINAL**.                  2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-23 is/are pending in the application.  
    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## **Application Papers**

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9-11, 13-17, 19-23 are rejected under 35 U.S.C. 103(a) as being obvious over Cherry in view of Wortman.

The patent to Cherry shows a floating waterfowl decoy having buoyant body 10, a weighted reel 12 rotatably mounted to the body, a flexible anchor line 24 attached to the reel and an anchor 14 attached to the anchor line. Cherry shows an integrated cranking means or reel 22. The patent to Wortman shows a decoy having reel 12 as shown in Fig. 1 with an eccentric weights 14, 17 rotatably mounted in the buoyant body. In reference to claims 1, 11, 20, it would have been obvious to provide Cherry with an eccentrically mounted weight as shown by Wortman to maintain the orientation of the decoy in a desired position. Cherry shows a recess 30 with the reel 12 mounted in the recess and partially disposed within the recess and partially disposed outside the recess as shown in Fig. 1. The anchor line extends out from the recess and can be considered to extend through an opening in the body which the recess is. Cherry shows a hole 60 in the outer hub of the reel. Cherry shows the integrated cranking means integrates with the buoyant body by retraction means 36, 64.

3. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherry in view of Wortman as applied to claim1 above, and further in view of Cram. The patents to Cherry, Wortman, and Cram show decoys. Cherry and Wortman have been discussed above and do not show the buoyant body having the anchor partially disposed therein. Cram shows a counter sunk anchor 6 and hole 8 in the decoy body as shown in Fig. 1. in reference to claims 8 and 18, it would have been obvious to provide the decoy of Cherry as modified by Wortman with counter-sunk anchor and hole in the decoy body as shown by Cram to prevent the anchor from flopping around and damaging other decoys when stored.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cherry in view of Wortman as applied to claim 11 above, and further in view of Lu. The patents to Cherry and Wortman show decoys as discussed above. Cherry does not show a integrated crank means having an inner crank member operably joined to an outer crank member. Lu shows a fishing reel having a crank with an inner member 10 and an outer member 20. The outer member has a handle 24 attached thereto. Lu shows a jointed attachment 22, 112, 221 between the inner member and the outer member. In reference to claim 12, it would have been obvious to provide the decoy of Cherry as modified by Wortman with an inner crank and an outer crank as shown by Lu since merely one integrated cranking means is being substituted for another and the function is the same.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection. Applicant's response filed Dec. 15, 2004 overcomes the rejection under 35 USC 112, second paragraph.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Taylor show another decoy with an anchor and an eccentric weight mounted to the reel.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR